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Veröffentlichungsversion / Published Version
Zeitschriftenartikel / journal article

Empfohlene Zitierung / Suggested Citation:

Brusis, M. (2003). The European Union and interethnic power-sharing arrangements in accession countries. *JEMIE - Journal on ethnopolitics and minority issues in Europe*, 1, 1-19. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-62030>

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The European Union and Interethnic Power-sharing Arrangements in Accession Countries

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Issue 1/2003

The European Union and Interethnic Power-sharing Arrangements in Accession Countries^{*}

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The article focuses on the impact exerted by the EU on domestic interethnic politics in accession countries. It argues that the EU has contributed to the emergence of power-sharing arrangements in accession countries, since its minority protection policy has been guided by a security approach that prioritizes the consensual settlement of disputes over the enforcement of universalist norms. The article analyzes the minority protection policy of the EU and highlights elements of consociational power-sharing observable in Bulgaria, Romania and Slovakia. On this basis, it is claimed that consociational power-sharing arrangements are more compatible with liberal democratic principles than territorial autonomy arrangements. Ideas and norms supporting these arrangements could thus permeate into the minority protection policy of an enlarged EU, although the principal obstacles to communitarizing minority rights will persist.

I. Introduction

The re-occurrence of wars on the European continent has led the European Union (EU) to put particular emphasis on protecting national minorities in Central and Eastern Europe. The enlargement process endows the EU with far-reaching power in those countries that have applied for EU membership. This paper is less interested in how this power facilitates the implementation of minority protection standards in accession countries. It rather focuses on the impact exerted by the EU on the arrangements of domestic interethnic politics, i.e. on the institutionalized relations between political actors representing ethnic minorities and majorities. Adopting this perspective is motivated by the assumption that ‘politics matters’ for the situation of national minorities because international norms of minority protection continue to be only weakly developed and specified. Faced with normative uncertainty, even weak political actors, such as the accession countries in relation to the EU, have a wide margin of discretion and can tailor normative reasoning to the needs of the political game.

The paper starts by explaining how the EU’s policy on the protection and rights of minorities in accession countries is composed in the absence of an EU minority rights *acquis*. Despite its incoherence, this policy has been very effective, due to the ‘loose coupling’ of advice and accession conditionality. The following section investigates the impact of the accession constellation on interethnic power relations in three exemplary EU accession countries: Bulgaria, Romania and Slovakia. In all three countries, parties of ethnic minorities participate in governments, albeit in different forms and degrees. The paper argues that the EU has contributed to the emergence of these models of consociational power-sharing. The final section

^{*} This article was elaborated in the context of a project on “issues and consequences of EU enlargement”, jointly managed by the Bertelsmann Foundation and the Center for Applied Policy Research. The author wishes to thank Elitsa Markova, Gerhard Seewann and the library of the Südost Institute in Munich for their indispensable support and advice.

draws conclusions for interethnic relations in the future new member states of an enlarged EU, thereby reflecting upon the ‘liberal pluralism’ debate. Consociational power-sharing, it is argued, should be preferred over a territorialization of interethnic relations, and sectoral policies relevant for minorities may be coordinated among EU member states.

II. What Minority Protection Policy Does the EU Have in the Accession Process?

This section analyzes the policy of the EU with respect to the protection of national minorities in accession countries. Whereas the other accession criteria defined by the 1993 European Council of Copenhagen have been integrated into the Treaty and are reflected in secondary legislation, the meaning of “respect for and protection of minorities” has not been further developed in EU law (De Witte 2000). As a consequence, EU institutions such as the Commission, the Council of Ministers and the European Parliament have used five main ‘reference points’ to define their policy and to assess whether accession countries fulfil the ‘minority criterion’ or protect national minorities effectively.

First, insofar as minority protection can be viewed as the outcome of anti-discrimination policies, a legal framework of reference has now been created with the extension of anti-discrimination provisions in the Treaty on the European Communities (Art. 13 TEC) and the adoption of a Directive implementing the “principle of equal treatment between persons irrespective of racial or ethnic origin”.¹ This so-called Race Equality Directive uses a comprehensive notion of ethnic and racial discrimination and is not limited to employees discriminated by public authorities. The Directive applies also to legal persons, to discrimination in the fields of education, social protection and the provision of public goods, and it includes also discriminatory rules created in the private sector (Schwellnus 2001; Toggenburg 2000). Since 2000, the EU has expected the accession countries to transpose and implement the Directive in their domestic legislation and practice (Open Society Institute 2001). The Directive provides a comprehensive legal basis to address negative discrimination and facilitates positive discrimination as it states that the principle of equal treatment “shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to positive actions on the national level” (Art. 5). But it does not define norms as to how states should organize positive discrimination to protect or support their minorities.

Second, EU institutions have been able to specify the minority criterion if a general policy consensus existed among EU member states. Such a broad political agreement concerned, for

¹ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180, 19.07.2000.

example, the need to grant full citizenship status to Russian-speaking non-citizens in Estonia and Latvia. While the EU has not rejected the basic position of the Estonian and Latvian governments according to which international minority protection standards do not apply to their non-citizens, it has continued to pressure the two countries for a quicker naturalization of this group. Similar shared EU policy aims are the social integration of the Roma minority and good-neighbourly relations between states with national minorities and the ethnic kin states of these minorities. The latter aim, for example, provided one of the reference points for the Commission's critique of the way Hungary prepared its Status Law supporting ethnic Hungarians in neighbouring countries.² The scope of the policy consensus in the EU is rarely delineated clearly, may be changed and largely depends on unanimity among the member states. Third, the EU institutions have referred to legal standards of minority protection that have been established by the Council of Europe, most importantly the Framework Convention on the Protection of National Minorities (FCNM) and the European Charter of Regional and Minority Languages (ECRML). This legal framework of reference does, however, not provide universally valid and clear standards because, on the one hand, the FCNM has not been ratified by all member states of the Council of Europe, among them five EU member states,³ and the ECRML has found even less support among the member states of the Council of Europe. On the other hand, the FCNM contains few concrete prescriptions to be monitored or enforced, and it mainly defines minority protection as a task states should fulfil, not as a set of subjective rights national minorities or individuals belonging to national minorities could claim.

In its regular reports monitoring the progress made by the candidate countries in meeting the criteria of EU accession (Progress Reports), the Commission apparently expects the candidates to ratify the FCNM prior to EU accession, although it has neither explicitly declared this a general requirement nor has the FCNM become part of the accession negotiations. For example, the 2002 Progress Report stated that "Latvia is urged to ratify the [FCNM]".⁴ The Report on Turkey noted that it had not even signed the FCNM.⁵ The Progress Reports also refer to how the Committee of Ministers of the Council of Europe and the Advisory Committee to the FCNM assess the implementation of this Convention in accession countries. Contrary to the FCNM, the implementation of the ECRML has not been expected by the Commis-

² 2001 *Regular Report on Hungary's Progress towards Accession*: 91. This Report and the Commission Reports quoted below are available at http://europa.eu.int/comm/enlargement/index_en.html.

³ Belgium, France, Greece, Luxemburg and the Netherlands, cf.

<http://conventions.coe.int/Treaty/EN/CadreListeTraites.htm>, accessed on 15.11.02.

⁴ 2002 *Regular Report on Latvia's Progress towards Accession*: 42. Except Latvia and Turkey, all other candidate countries have already ratified the FCNM.

⁵ 2002 *Regular Report on Turkey's Progress towards Accession*: 42, respectively.

sion, as it neither monitors its ratification systematically for all candidates nor criticizes its non-implementation. The European Parliament has referred to the FCNM in its resolutions on the enlargement negotiations, and the Council has mentioned “international standards” as a general point of reference in its “Accession Partnerships” i.e. the Council decisions setting priorities for the candidate countries’ accession preparation.⁶

Fourth, the EU institutions have reflected norms developed by the Organization for Security and Cooperation in Europe (OSCE) and its High Commissioner on National Minorities (HCNM) in their assessments.⁷ The EU has “in effect delegated to the HCNM the task of judging whether [Central and East European] countries have ‘done enough’ in terms of minority rights.” (Kymlicka 2001: 375) In the case of Estonia and Latvia for example, the EU and its member states have concluded Europe Agreements that contain “the commitment to ... further development of Estonia’s [Latvia’s] new economic and political system which respects – in accordance *inter alia* with the undertakings made within the context of ... the Organization for Security and Cooperation in Europe (OSCE) – the rule of law and human rights, including the rights of persons belonging to minorities”.⁸ The subsequent Accession Partnerships for these two countries have referred to these clauses, which assign a more enhanced role to the OSCE than the Europe Agreements with other accession countries. Despite this legal basis in the mentioned Europe Agreements, OSCE documents and the Recommendations of the High Commissioner do not provide firm standards for the accession process as they are not legally binding and primarily reflect concerns of security, not the aim of setting universal standards of justice.

Fifth, the Commission and the Parliament have taken domestic constitutional provisions and legislation as points of reference. They have interpreted these domestic rules as self-commitments of an accession country and addressed implementation deficits or called for compliance with these rules. An example is the 2002 Progress Report on Romania, which stated that the Law on Local Public Administration, which regulated the official use of minority languages, had been “successfully applied despite the reticence of some prefectures and local authorities.” (35) Relying on domestic rules and agreements is advantageous as it enables the EU institutions to focus their policy on the specific local situation, but it risks that the parameters of the situation determine the standards (normative assumptions) underlying EU policies. To take the above-mentioned Romanian example, where the use of the minority

⁶ Cf. the European Parliament Resolution on the State of enlargement negotiations, adopted on 13.6.02 (P5_TAPROV(2002)0317), and the Council Decisions on the 13 Accession Partnerships of 28.1.02, OJ L 44 of 14.2.02.

⁷ Cf. the 2002 Regular Report on Latvia (31) or the Parliament’s 2002 Resolution on Latvia and Estonia.

⁸ OJ L68 of 9.3.98, p. 3-4 and OJ L26 of 2.2.98, p. 3-4.

language as an official language is permitted in municipalities with more than 20 per cent of the residents belonging to the relevant minority, the FCNM and other international standards do not specify this threshold share, allowing to assess whether a domestic regulation eventually sets too high a threshold.

Hence, the EU institutions lack a point of reference to orient their policy in an accession country like Bulgaria where there is neither a legal regulation on the share of minority residents required for using the minority language as an official language nor a major political controversy on this issue between minority and government representatives. By linking their evaluation to the domestic context, EU institutions tend to replace a justice-based assessment with a security-based approach aiming at a consensual conflict settlement.⁹ Whereas domestic political conflicts over the use of the minority language, minority education or culture are noted with concern, the absence or resolution of major disputes is evaluated positively and represents an indicator of compliance with the accession criterion.

These five points of reference and the political positions derived from them make sense individually, but do not add up to a coherent policy. The EU is perceived as promoting both anti-discrimination and minority protection objectives, but the extent to which anti-discrimination policies may achieve or replace sufficient minority protection is not clear. The EU does not expressly support group rights as an approach to minority protection, but does not show a clear preference for individual rights either.¹⁰ Security-based interests in a consensual conflict settlement take priority over the interests in fair and just standards. Except from Slovakia in 1997 and Turkey, candidate countries that did not take into account EU critiques of their minority policy were not sanctioned in any way. However, the absence of sanctioning reactions may also be taken as an indicator of behavioural compliance and thus an effective EU policy. In other words, the EU has been able to allow itself diffuse and ambiguous minority rights norms because its accession conditionality has effectively induced governments of accession countries to align the fundamental orientations of their policies with EU expectations irrespective of their incoherence.

It is inappropriate to read and conceive EU statements on minority protection as ‘normative judgments’, inferences drawn from a coherent set of norms and linked to certain neces-

⁹ Cf. Kymlicka (2001) for a thorough discussion of the differences between the contextual, security-based minority rights track and the universal, justice-based minority rights track.

¹⁰ Riedel's assertion (2002) that the EU tends to advocate collective rights through its accession requirements cannot be substantiated on the basis of official EU statements.

sary consequences.¹¹ Rather, they represent ‘moral suasion’, advice that is only loosely coupled to the decision on whether or not an accession country can be accepted as a member state. Statements from the Progress Reports, Accession Partnerships or Resolutions of the European Parliament indicate the way an accession country should go but do not limit the discretion of the EU and its member states about whether the political criterion has been met or whether an accession country can enter. The loose coupling between (bad) evaluations and (negative) enlargement decisions has worked as a strong incentive for accession countries to approximate EU expectations and it has provided maximum flexibility for the EU.

III. Bulgaria, Romania, Slovakia: EU-induced Consociationalism?

This section studies how the EU has influenced interethnic power relations in accession countries. It is confined to Bulgaria, Romania and Slovakia – three accession countries with significant ethnic minorities, which were mainly selected to illustrate the main line of argumentation, as they have developed features of a consociational arrangement of power-sharing. Consociationalism has been identified by Arend Lijphart as a model of democracy and government in societies with ethnic, religious or cultural cleavages (1977: 25-52). Characteristics of the consociational model are a government by a grand coalition of the political leaders of all significant segments of a plural society, veto rights of all partners involved in the governing coalition, a high degree of autonomy for each segment to run its own internal affairs, and proportionality as the principal standard of political participation, civil service appointments and allocation of public funds.¹² The following paragraphs briefly describe these elements of consociationalism in the three countries.

1) In *Bulgaria*, the parliamentary elections of 2001 resulted in a coalition between the National Movement Simeon II (NDSV) and the party seeking to represent Bulgaria’s 9.4 per cent ethnic Turkish citizens, the Movement for Rights and Freedoms (DPS).¹³ DPS is in a veto position, as the NDSV requires the support of DPS deputies to achieve a majority in Parliament. The DPS participates in the cabinet of Prime Minister Simeon Sakscoburgotski with a Minister of Agriculture, a Minister without Portfolio and a Deputy Minister of Defence. DPS politicians have received posts as regional governors and heads of executive agencies.

¹¹ Brunner’s critique of the voluntarism (*Beliebigkeit*) manifested in the Commission’s Reports (2002) tends to take a coherent set of norms as the framework of reference.

¹² For a discussion of the consociationalist model with respect to the prevention of ethno-political conflicts, cf. Sisk (1996) and Snyder (2000).

¹³ The minor coalition partner, DPS, is an alliance of three parties led by the party naming itself DPS.

The DPS used to play a pivotal role for the survival of several previous governments. It supported the first and the second government led by the United Democratic Forces in 1991-92 and 1997, respectively. In addition, the DPS was mandated to form the government of Lyuben Berov in 1992 and supported his government until its resignation in 1994 (Johnson 2002; Vassilev 2001).

The Bulgarian Constitution does not mention the existence of national minorities and forbids the creation of political parties on ethnic grounds. This constitutional provision caused several political initiatives to ban the DPS as a party organized on ethnic grounds, but the failure of these attempts has led to a certain *modus vivendi* where the major Bulgarian parties accept the DPS in exchange for its self-restraint with regard to radical ethnopolitical demands. While the majority of DPS voters are ethnic Turks, the party has neither fully mobilized the entire ethnic Turkish community nor has it established a monopoly of representation. Its vote share in parliamentary elections increased from 5.7 per cent in 1990 to 7.55 per cent in 1991, but declined to 5.44 per cent in the 1994 elections, reflecting internal power struggles and scandals (Ilchev 2000). Electoral support rose again to 7.6 per cent in 1997, when DPS participated as part of an electoral coalition, and reached 7.45 per cent in the 2001 elections. The DPS does not consider itself an ethnic party and intends to promote minority concerns by strengthening the civic elements of the Bulgarian state and nation.¹⁴ Its 2001 electoral programme emphasized liberal values such as individual rights and freedoms and non-discrimination, supporting in particular the decentralization of government and rural economic development.¹⁵ The party was successful in achieving some improvements for national minorities in Bulgaria. For example, the Parliament simplified the procedure for re-establishing Turkish names, and the government declared to set up an agency for national minorities supporting the National Council for Ethnic and Demographic Issues.¹⁶

The ethnic Turkish community enjoys segmental autonomy in Bulgarian society, though its autonomy in terms of ethnic self-consciousness, cultural self-assertion, education and self-government is much weaker than that of the ethnic Hungarian communities in Romania and Slovakia. There is a discernible social distance between the ethnic Turkish and ethnic Bulgarian communities expressed in a low share of people willing to marry a member of the other community (Ilchev 2000, 247). Most ethnic Turks are also Muslims, live in rural areas in the Kurdzhali and Razgrad regions of South- and North-Eastern Bulgaria, and form a local majority in Kurdzhali. Schools in the ethnic Turkish settlement areas offer Turkish as a subject of

¹⁴ Cf. the statements of DPS leaders reported by the US-sponsored NGO "Project on Ethnic Relations" (2002).

¹⁵ Bŭlgariia – Evropa. Nestandarden pŭt na razvitie, www.dps.bg.

¹⁶ Upravlenska programa na pravitelstvoto na Republika Bŭlgariia, www.government.bg, and Petkova (2002).

instruction, and cultural institutions as well as media operate in the Turkish language. Mayors affiliated with DPS run 28 municipalities (*obshtini*) with a high share of ethnic Turkish residents, amounting to approximately 11 per cent of all municipalities (262). In general, however, ethnic Turks are underrepresented in public administration.

2) In *Romania*, the Democratic Alliance of Magyars in Romania (UDMR) participated in government between 1996 and 2000, and has enabled the social democrat minority government since 2000 (Csergő 2002; CEDIME-SE 2001). The fact that the UDMR ceased to participate in the governing coalition in 2000 did not entail the end of consociational power-sharing (cf., however, Kostecki 2002: 39). Subsequent agreements between the Social Democratic Party of Romania (PSD) and the UDMR have set out an obligatory consultation of the UDMR in important political issues and numerous policy concessions in exchange for UDMR abstention from non-confidence motions or votes in Parliament. These agreements have ensured a *de facto* involvement of the UDMR in governance, have endowed the UDMR with a veto position and envisage a ‘civic multicultural model’ for interethnic relations in Romania, comprising strong elements of consociationalism.¹⁷

As a coalition partner to the various cabinets led by prime ministers from the liberal-conservative Democratic Convention of Romania (CDR), the UDMR nominated two ministers, ten state secretaries, two prefects and eight deputy prefects (Kostecki 2002: 27; Medianu 2002). A UDMR minister headed the Department for the Protection of National Minorities that was established in 1997 and subordinated to the prime minister. The social democrat government assigned the Department for the Protection of National Minorities to the Ministry of Public Information, thereby excluding the head of the department from the participation in Cabinet meetings. However, the minority departments in the Ministries of Education and Culture were retained, and the UDMR also kept the posts of deputy prefects. The UDMR’s involvement in the government has been institutionalized in two other executive bodies, an Interministerial Committee for National Minorities (created in 1998) and a consultative Council for National Minorities (2001). Based upon the idea of a state nation, the Romanian Constitution does not assign a special status to the ethnic Hungarian or other minorities. It envisages the state to guarantee the development of the ethnic identity of persons belonging to national minorities, but restricts a positive discrimination of these individuals.

¹⁷ Egyezmény a Romániai Magyar Demokrata Szövetség és a Szociális Demokrácia Romániai Pártja között, www.rmdsz.ro. The UDMR’s veto position is, however, weak insofar as the PSD might rely on the deputies of other parties to organize a parliamentary majority and that ethnic Romanian parties (ethnic at least with regard to their ethnic Romanian constituencies) are likely to support the government on ethnopolitical issues.

Constant vote shares in subsequent parliamentary, regional and local elections, roughly matching the share of ethnic Hungarian population in Romania (7 per cent), indicate that UDMR has been able to mobilize and integrate the ethnic Hungarian electorate. The UDMR considers itself as the party representing the interests of the ethnic Hungarian community in Romania. It has sought to integrate all political and social milieus in this community, and its political strategy aims at increasing the segmental autonomy of the ethnic Hungarian minority. During the CDR-led governments, the UDMR was able to achieve major amendments to the education and self-government laws. In municipalities with more than 20 per cent of the residents belonging to a national minority, the use of the minority language in public administration was legalized, bilingual signs were introduced, and the minority language became a language of instruction.

The 2001 agreement with the PDS-led government facilitated, *inter alia*, a Law on Local Public Administration that permitted the use of the minority language as an official language in municipalities with more than 20 per cent of minority language speakers.¹⁸ In the agreement of January 2002, the government committed itself to expanding school and university education and broadcasting in the Hungarian language, ratifying the European Charter of Regional and Minority Languages, returning real estate confiscated by the socialist state, and to recruiting ethnic Hungarian police officers in municipalities with more than 20 per cent ethnic Hungarians.¹⁹ Particularly the last-mentioned objective indicates that ethnic proportionality has gained importance as an organizing principle in Romanian public administration, although the Romanian government does not explicitly promote it.

The ethnic Hungarian community has traditionally been more organized and articulate than the ethnic Turkish community in Bulgaria. Ethnic Hungarians constitute approximately 20 per cent of the population in the Transylvania region of Western Romania, and they form local majorities in the counties of Harghita and Covasna (*Székelyföld*). In the ethnic Hungarian settlement area, local self-governments are managed by ethnic Hungarian mayors, and schools with Hungarian as a language of instruction, a private Hungarian-language university, cultural institutions and media provide segmental autonomy. Comparative sociological research on social relations between ethnic Hungarians and ethnic Romanians has shown that conflict perceptions are more intense in Transylvania than between ethnic Hungarians and ethnic Slovaks in Southern Slovakia (Csepeľi, Örkény and Székelyi 1999: 104).

¹⁸ *Heti Világgazdaság*, 6.1.2001.

¹⁹ *Egyezmény*; *Heti Világgazdaság*, 16.2.2002. In addition, Art. 81 of the Law No. 188/1999 on the Status of the Public Servant stipulates that some public servants shall know the minority language in areas with a share of more than 20 per cent of the citizens belonging to a national minority.

3) In *Slovakia*, the Slovak Magyar Coalition Party (SMK) has been involved in the governing coalitions since 1998. From 1998 until 2002, SMK nominated the Deputy Prime Minister responsible, *inter alia*, for minority protection, two ministers and a state secretary in the Ministry of Education. In the government established in October 2002, the SMK again got the posts of the Deputy Prime Minister responsible for minority protection and the Minister of Environmental Protection. In addition, SMK politicians act as a Deputy Chairman of Parliament, Minister of Agriculture, Minister of Regional Development and as State Secretaries in the Ministries of Economics, Finance, Education, Culture, Foreign Affairs, and Regional Development.²⁰ Both governments have required the support of SMK deputies to ensure a majority in Parliament. While the Slovak Constitution does not assign special group rights to national minorities, it does stipulate subjective rights of persons belonging to national minorities with respect to, *inter alia*, establishing associations, using the minority language, education and culture.

The continued governmental involvement of the SMK has significantly improved the institutional environment for a segmental autonomy of the ethnic Hungarian community in Slovakia. The governing majority adopted a new law regulating the use of the minority language and enhanced the status of the consultative Government Council for National Minorities and Ethnic Groups in 1999. In contrast to Bulgaria and Romania, Slovakia has ratified the European Charter of Regional and Minority Languages, and adopted legislation to decentralize administrative competences and establish regional self-government in 2001. In addition, the new government's programme declaration envisaged the adoption of a new law on minorities regulating, *inter alia*, the funding of minority cultures.²¹

The SMK considers itself as a party aggregating the interests of the ethnic Hungarian community in Slovakia (9.7 per cent of the population) and tries to represent the entire spectrum of political positions articulated among ethnic Hungarians. Stable electoral results equaling the size of the ethnic Hungarian electorate and opinion poll data confirm that most ethnic Hungarians consider themselves represented by the SMK (Gyárfašová and Vešić 2002). As in Romania, a network of schools with Hungarian as a language of instruction, media and cultural institutions reflect the segmental autonomy of the ethnic Hungarian community in Slovak society. While the share of ethnic Hungarian or SMK-affiliated mayors roughly corresponds to the share of the ethnic Hungarian community, no concrete figures are known that could prove proportionality in the civil service or public expenditure. Similar to the Romanian

²⁰ Koaličná dohoda medzi SDKÚ, SMK, KDH a ANO, 8.10.2002, www.smk.sk.

²¹ Programové vyhlásenie vlády Slovenskej republiky, 4.11.2002: 31, www.vlada.sk.

and Bulgarian cases, governments have not aimed at institutionalizing the principle of ethnic proportionality but acknowledge the importance of minority representation in the administration of ethnically heterogeneous areas.

Obviously, some further qualifications need to be made with regard to the reality of the consociational model in the three country cases: this paper uses a wide definition of consociationalism not presupposing that more than two ethnic groups exist or that none of the ethnic groups is in a dominant position. While many Bulgarian, Romanian or Slovak parties might not consider themselves as representing the dominant ethnic group and in this sense do not support a consociational model (Medianu 2002: 30), they do represent the ethnic majorities in terms of voter alignments. The same applies to the DPS in Bulgaria, which does not consider itself an ethnic party. In a formal sense, none of the three countries is governed by a grand coalition including all segments of society, and the Roma community has not been represented in any of the governing coalitions. But the volatility of party systems and the changing social structure in the three countries result in shifting non-ethnic alignments of voters and, consequently, in broad representational strategies of the larger governing parties. Despite these necessary qualifications, numerous elements of the minority veto, interethnic coalition, proportionality and segmental autonomy – components of the consociational model of power-sharing – could be documented by this overview.

The overview has also shown that domestic circumstances can account for the emergence of this model. The Bulgarian movement for Simeon II, the Romanian social democrats and the liberal and centre-right parties in Slovakia did not attain an absolute majority in Parliament and thus required the support of parties representing mainly the most numerous ethnic minorities. These coalitions have been facilitated by proportional electoral systems in all three countries. Yet, this paper claims that these domestic factors do not sufficiently explain the creation and stabilization of consociational models in the three countries. There are three reasons to assume that the EU and the accession constellation have made an important contribution.

First, since the great majority of the citizens in the three countries support European integration and the EU membership of their country, citizens expect political parties to reflect European values and to meet the normative expectations of the EU. Parties representing ethnic minorities and majorities thus both have an incentive to demonstrate their European value orientation to their constituencies by taking moderate political positions and building compromises around European norms of interethnic reconciliation and co-existence. Despite the

rise of eurosceptic parties or movements, pro-European parties have so far competed more successfully for electoral support both in majority and minority communities.

Second, both parties advocating minority and majority issues share an intrinsic interest in EU membership (Kymlicka 2001). Representatives of ethnic minorities can suppose that minority communities will benefit from more permeable borders, multi-level contacts with neighbouring ethnic kin states and through the limitation and scrutiny of state sovereignty in the EU framework. Advocates of ethnic majority concerns, who often claim to represent general interests of the state or nation, have reasons to believe that after accession EU institutions will be in a much weaker position *vis-à-vis* a member state and, given the lack of a minority rights *acquis*, will not continue interfering in a state's treatment of its minorities as deeply as before. In the pre-accession phase, these interests of ethnopolitical actors converge and thus facilitate arrangements of joint governance.

Third, the previous section has argued that EU policy tends to favour a security-based approach aiming at consensual settlements over the enforcement of universal norms. This policy approach has been particularly conducive to interethnic coalitions since it has caused political leaders of ethnic groups to abandon principled positions unlikely to be appreciated by the EU. Political representatives of ethnic majorities know that concessions to ethnic minorities are appreciated by EU institutions, and minority representatives know that moderate positions will find more support in Brussels. In contrast, the normative ambiguity and vagueness of EU statements leaves both sides uncertain as to whether a rights-based policy, even if it appears convincing and legitimate, will be backed by the EU.

These three rationales for an EU impact can be complemented with some empirical evidence of an EU interest in keeping interethnic power-sharing arrangements. In Slovakia, the EU intervened directly to sustain the governing coalition during the crisis over the adoption of the territorial-administrative reform laws in August 2001: the SMK threatened to leave the government after deputies of the governing coalition parties had voted together with opposition deputies to reject a government proposal dividing the country into 12 instead of eight regional self-governments. The political representatives of the ethnic Hungarian community had favoured smaller regions as a better institutional safeguard of local-level autonomy. Some days prior to the meeting of the SMK Republican Council that should decide on leaving or remaining in the governing coalition, Commissioner for Enlargement Verheugen highlighted the importance a stable government including the representatives of the ethnic Hungarian minority would have for the country's accession to the EU (Mesežnikov 2002: 52). His warning prompted the SMK to accept the law on regional self-government in its adopted meaning, and

induced the coalition partners to accept the conditions set by the SMK for its participation in government.

In Bulgaria and Romania, political interventions of the EU have less directly targeted the continuation of interethnic cooperation but EU policy has shaped a milieu fostering consociational power-sharing arrangements.

IV. Implications for an Enlarged EU and its New Member States

This section asks how interethnic relations in Central and Eastern European (CEE) states will develop after they have joined the EU. If the accession constellation has contributed to the emergence of consociational power-sharing in Bulgaria, Romania and Slovakia, will these arrangements be less stable once the EU relinquishes its power position? If the EU has been able to successfully pursue a diffuse and ambiguous minority rights policy because of functioning accession conditionality, will its policy fail when conditionality ceases to be effective? Does the EU then need to develop and clarify its own normative standards?

Whether there is a basis for the development of common norms on interethnic relations in an enlarged EU, shall be addressed by scrutinizing Will Kymlicka's attempt to develop a liberal theory of group rights (Kymlicka 1995; Kymlicka and Opalski 2001). A central tenet of this theory is that ethnocultural justice requires states, which are *per se* nation building in that they embody the majority culture, to accept nation-building activities of ethnic minorities. States may restrict minority nation building only by ensuring individual liberties. The norm of justice between minority and majority cultures leads Kymlicka to consider territorial autonomy as a possible and legitimate arrangement to protect a national minority. He supports territorial autonomy for CEE also by giving empirical and functional reasons: "the trend in the West is in fact towards *greater* territorialization of minority rights regimes for national minorities" (2001: 365, emphasis in original). "[Territorial autonomy] has worked well in the West and is worthy of serious consideration in [Eastern and Central Europe] ..." (2001: 362).

It is doubtful whether territorial autonomy for national minorities can be derived from principles of liberal democracy, since liberal democratic norms of justice and freedom apply to individuals and include their right to determine which culture they belong to. Liberal democracy has to ensure the individual right of cultural self-determination and an adequate decentralization of power guaranteeing a balance of powers and local or regional self-government rights. But granting territorial autonomy to a national minority means transferring functionally unspecified, territorially defined state power to a group because of its ethnic dis-

inctiveness. The cultural self-determination right of individuals belonging to this group justifies a functionally specified autonomy to protect their cultural self-determination, but does not legitimize territorial self-government rights that go beyond the self-government rights exercised by other citizens.

Beyond these normative doubts, functional and empirical arguments militate against territorial autonomy. Fragile statehood traditions and recent wars support a pattern of perception in CEE that frames minority issues as questions of loyalty and secession, not of fairness and justice (Kymlicka and Opalski 2001: 67, 366). Territorializing minority rights regimes or conceding the possibility of secession reinforces this predominant security risk perception of majorities and is likely to exacerbate conflicts. Kymlicka neither takes this effect serious enough nor does he realize the presence of neighbouring ethnic kin states in CEE when he argues for territorial autonomy as a long-term guarantee against the assimilation of minority diasporas outside the autonomous territory (2001: 364-365). A kin state like Hungary performs the same functions for ethnic Hungarian minorities in the neighbouring countries of Hungary as Quebec does for francophone Canadians outside Quebec.

Contrary to the territorialization of minority issues, this paper has found a trend toward consociational power-sharing in three accession countries. Both for normative and functional reasons, this paper argues that consociationalism is better suited as a long-term arrangement of interethnic relations in CEE. The non-territorial, cultural, personal and functional autonomy regulations facilitated by consociationalism are more compatible with the principles of liberal democracy. One could even argue that consociational arrangements are a functional equivalent to regimes of personal autonomy (*Personalaautonomie*) in the narrower legal sense of a minority self-government endowed with certain public functions and prerogatives in minority-relevant areas. To date, only Estonia, Hungary and Slovenia have institutionalized such bodies in CEE (Brunner 2002: 227-228). A functionally specified autonomy protects the individual right of cultural self-determination, a right that is more acceptable on the basis of liberal democracy than a group right of nation building. Since consociational arrangements institutionalize the participation of minority representatives in the joint governance of public affairs, they do not frame minority issues as questions of loyalty and secession. In contrast with territorial autonomy, consociational arrangements support a perception of minority issues as problems of justice among groups or citizens across policy sectors. They can thus contribute to the consolidation of democracy in CEE societies with ethnic cleavages.

Consociational power-sharing has been criticized as an ineffective strategy of conflict prevention, when compared with Donald Horowitz' ideas about institutions facilitating cross-

ethnic alignments (Horowitz 1985; Sisk 1996; Snyder 2000). However, this juxtaposition does not reflect the reality in the CEE cases studied here. First, as the party systems in Romania, Slovakia and, to a minor extent, Bulgaria, have frozen the ethnic cleavages of these societies, any conflict prevention strategy has to take this into account. Institutional designs that aim to eliminate the ethnic cleavage tend to underestimate the resilience of actors. Second, the concepts of Horowitz and Lijphart do not represent mutually exclusive conflict prevention strategies: existing consociational elements can well be combined with institutions facilitating cross-ethnic alignment and they are often linked to such institutions in the three countries.

Taken together, the recourse to the debates on liberal pluralism and conflict prevention suggests normative and functional considerations that militate for consociational power-sharing arrangements. The remainder of this section analyzes, in a somewhat speculative fashion, whether an enlarged EU might pay attention to such considerations. After enlargement, the EU institutions will no longer be in an authoritative position to monitor the protection of minorities and to expect consensual conflict settlements. As a consequence, domestic political actors will have fewer incentives to develop consociational arrangements, and resuscitating conflictual politics may become a more likely option for them. Yet, the future of consensual arrangements will also depend on whether, *inter alia*, majority relations in parliament necessitate broad political coalitions. Parties representing nationalist voters within the ethnic majority will probably be interested in escalating conflicts with ethnic minorities. Nationalist minority politicians, however, will be less successful in rallying support for a more confrontational policy, if power-sharing arrangements yield tangible benefits. In any case, one has to take into account that current power-sharing arrangements in the three countries differ from Western examples of consociationalism (Belgium, Switzerland) in that they lack a strong and positively commemorated tradition of power-sharing on which political actors could build.

With the Treaty of Nice and in view of the experience with Austria, the EU now has a legal instrument of intervention in the EU Treaty (Art. 7), if member states violate principles of liberty, democracy, human rights, fundamental freedoms, or the rule of law. The EU has not created a minority rights *acquis* beyond the anti-discrimination rules and an enlarged EU seems unlikely to codify its own specific common standards of minority protection, given the persistent diversity of national approaches and the sensitivity of minority issues in old and new member states. EU institutions will certainly not actively promote coalition governments bridging ethnic cleavages in the member states.

However, functionally legitimized and specified arrangements supporting the development of minority culture appear to be a viable option for a common EU policy as they can be derived from the individual right of cultural self-determination and the EU's commitment "to respect and to promote the diversity of its cultures" (Art. 151(4) TEC) (Schwellnus 2001; Toggenburg 2000). The EU could use the Open Method of Coordination (OMC) to develop cultural diversity, since this new procedure respects the variety of member states' political practices. OMC aims at encouraging cooperation, the exchange of best practice and agreeing common targets and guidelines for member states. It relies on regular monitoring of progress to meet those targets, allowing member states to compare their efforts and learn from the experience of others. The method was first applied in the 'Lisbon process' on the modernization of social and employment policies and was extended to migration policies in 2001. An OMC for cultural diversity could set common targets for improving education in the minority language, bilingualism of minorities and majorities, interethnic dialogue mechanisms, the management of multi-ethnic local communities, or the advancement of minorities on the labour market. The soft pressure exerted by peer reviews and the good examples of other member states could induce governments to increase their efforts to promote cultural diversity. While OMC would preserve the discretion of governments, it could shape a milieu supportive of interethnic power-sharing.

V. Conclusion

The key argument of this paper is that the EU has supported the emergence of consociational power-sharing arrangements between political actors that accommodate ethnic cleavages in accession countries. The EU has effected this somewhat unintentionally in the accession constellation, since its minority protection policy has been guided by a security approach that prioritizes the consensual settlement of disputes over the enforcement of universalist norms. Enlargement will put out of work the accession conditionality that has effectively underpinned this particular minority protection policy. While this will remove an important incentive for domestic political actors to engage in power-sharing, the future of consociational arrangements will also depend on other domestic factors, such as electoral outcomes. Since consociational power-sharing arrangements are more compatible with liberal democratic principles than territorial autonomy arrangements and seem to function better in a CEE environment, ideas and norms supporting these arrangements could diffuse into EU policies. Although the principal obstacles to communitarizing minority rights will persist in an enlarged

EU, the promotion of cultural diversity could become a point of departure for an EU policy that aims at supportive framework conditions of interethnic power-sharing.

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ISSN: 1617-5247

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